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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

AMERICAN GENERAL LIFE
INSURANCE COMPANY,

Plaintiff,

v.

JULIE VALENTINE,

Defendants

Case No. 2:16-cv-08097-JAK-JC

**STIPULATED PROTECTIVE ORDER;
ORDER**

Complaint Filed: October 31, 2016

DISCOVERY MATTER

JULIE VALENTINE,

Counter-Claimant,

v.

AMERICAN GENERAL LIFE
INSURANCE COMPANY,

Counter-Defendant.

Plaintiff and Counter-Defendant American General Life Insurance Company (“American General”) and Defendant and Counterclaimant Julie Valentine (“Valentine”) (collectively, the “Parties”) hereby agree and stipulate to a protective order regarding discovery in the above-captioned matters as follows:

1 **1. PURPOSE AND LIMITS OF THIS ORDER**

2 Discovery in this action is likely to involve production of confidential, proprietary,
3 or private information requiring special protection from public disclosure and from use for
4 any purpose other than this litigation. Thus, the Parties agree that the Court should enter
5 the following Protective Order. This Order does not confer blanket protections on all
6 disclosures or responses to discovery and the protection it gives from public disclosure
7 and use extends only to the specific material entitled to confidential treatment under the
8 applicable legal principles. This Order does not automatically authorize the filing under
9 seal of material designated under this Order. Instead, the Parties must comply with Civil
10 Local Rule 79-5.1 and this Order if they seek to file anything under seal. This Order does
11 not govern the use at trial of material designated under this Order.

12 This order is based upon the Standing Protective Order for the Honorable John A.
13 Kronstadt. The Parties have modified this Order to remove references to Source Code
14 from the Standing Protective Order because they do not anticipate any issues in this
15 litigation related to Source Code.

16 **2. DESIGNATING PROTECTED MATERIAL**

17 **2.1 Over-Designation Prohibited.** Any party or non-party who designates
18 information or items for protection under this Order as “CONFIDENTIAL” or “HIGHLY
19 CONFIDENTIAL – ATTORNEY EYES ONLY” (a “designator”) must only designate
20 specific material that qualifies under the appropriate standards. To the extent practicable,
21 only those parts of documents, items, or oral or written communications that require
22 protection shall be designated. Designations with a higher confidentiality level when a
23 lower level would suffice are prohibited. Mass, indiscriminate, or routinized designations
24 are prohibited. Unjustified designations expose the designator to sanctions, including the
25 Court’s striking all confidentiality designations made by that designator. Designation
26 under this Order is allowed only if the designation is necessary to protect material that, if
27 disclosed to persons not authorized to view it, would cause competitive or other
28 recognized harm. Material may not be designated if it has been made public, or if

1 designation is otherwise unnecessary to protect a secrecy interest. If a designator learns
2 that information or items that it designated for protection do not qualify for protection at
3 all or do not qualify for the level of protection initially asserted, that designator must
4 promptly notify all parties that it is withdrawing the mistaken designation.

5 **2.2 Manner and Timing of Designations.** Designation under this Order requires
6 the designator to affix the applicable legend (“CONFIDENTIAL” or “HIGHLY
7 CONFIDENTIAL – ATTORNEY EYES ONLY”) to each page that contains protected
8 material. For testimony given in deposition or other proceeding, the designator shall
9 specify all protected testimony and the level of protection being asserted. It may make that
10 designation during the deposition or proceeding, or may invoke, on the record or by
11 written notice to all parties on or before the next business day, a right to have up to 21
12 days from the deposition or proceeding to make its designation.

13 **2.2.1** A party or non-party that makes original documents or materials available for
14 inspection need not designate them for protection until after the inspecting party has
15 identified which material it would like copied and produced. During the inspection and
16 before the designation, all material shall be treated as HIGHLY CONFIDENTIAL –
17 ATTORNEY EYES ONLY. After the inspecting party has identified the documents it
18 wants copied and produced, the producing party must designate the documents, or
19 portions thereof, that qualify for protection under this Order.

20 **2.2.2** Parties shall give advance notice if they expect a deposition or other
21 proceeding to include designated material so that the other parties can ensure that only
22 authorized individuals are present at those proceedings when such material is disclosed or
23 used. The use of a document as an exhibit at a deposition shall not in any way affect its
24 designation. Transcripts containing designated material shall have a legend on the title
25 page noting the presence of designated material, and the title page shall be followed by a
26 list of all pages (including line numbers as appropriate) that have been designated, and the
27 level of protection being asserted. The designator shall inform the court reporter of these
28 requirements. Any transcript that is prepared before the expiration of the 21-day period

1 for designation shall be treated during that period as if it had been designated HIGHLY
2 CONFIDENTIAL – ATTORNEY EYES ONLY unless otherwise agreed. After the
3 expiration of the 21-day period, the transcript shall be treated only as actually designated.

4 **2.3 Inadvertent Failures to Designate.** An inadvertent failure to designate does
5 not, standing alone, waive protection under this Order. Upon timely assertion or
6 correction of a designation, all recipients must make reasonable efforts to ensure that the
7 material is treated according to this Order.

8 **3. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

9 All challenges to confidentiality designations shall proceed under Civil Local Rule
10 37-1 through Civil Local Rule 37-4.

11 **4. ACCESS TO DESIGNATED MATERIAL**

12 **4.1 Basic Principles.** A receiving party may use designated material only for this
13 litigation. Designated material may be disclosed only to the categories of persons and
14 under the conditions described in this Order.

15 **4.2 Disclosure of CONFIDENTIAL Material Without Further Approval.**

16 Unless otherwise ordered by the Court or permitted in writing by the designator, a
17 receiving party may disclose any material designated CONFIDENTIAL only to:

18 **4.2.1** The receiving party’s outside counsel of record in this action and employees
19 of outside counsel of record to whom disclosure is reasonably necessary;

20 **4.2.2** The officers, director, and employees of the receiving party to whom
21 disclosure is reasonably necessary, and who have signed the Agreement to Be Bound
22 (attached hereto as **Exhibit 1**);

23 **4.2.3** Experts retained by the receiving party’s outside counsel of record to whom
24 disclosure is reasonably necessary, and who have signed the Agreement to be Bound;

25 **4.2.4** The Court and its personnel;

26 **4.2.5** Outside court reporters and their staff, professional jury or trial consultants,
27 and professional vendors to whom disclosure is reasonably necessary, and who have
28 signed the Agreement to Be Bound;

1 **4.2.6** During their depositions, witnesses in the action to whom disclosure is
2 reasonably necessary and who have signed the Agreement to Be Bound;

3 **4.2.7** The author or recipient of a document containing the material, or a custodian
4 or other person who otherwise possessed or knew the information.

5 **4.3 Disclosure of HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY**
6 **Material without Further Approval.** Unless permitted in writing by the designator, a
7 receiving party may disclose material designated HIGHLY CONFIDENTIAL –
8 ATTORNEY EYES ONLY without further approval only to:

9 **4.3.1** The receiving party’s outside counsel of record in this action and employees
10 of outside counsel of record to whom it is reasonably necessary to disclose the
11 information;

12 **4.3.2** The Court and its personnel;

13 **4.3.3** Outside court reporters and their staff, professional jury or trial consultants,
14 and professional vendors to whom disclosure is reasonably necessary, and who have
15 signed the Agreement to Be Bound;

16 **4.3.4** The author or recipient of a document containing the material, or a custodian
17 or other person who otherwise possessed or knew the information.

18 **4.4 Procedures for Approving or Objecting to Disclosure of HIGHLY**
19 **CONFIDENTIAL – ATTORNEY EYES ONLY Material to In-House Counsel or**
20 **Experts.** Unless agreed to in writing by the designator:

21 **4.4.1** A party seeking to disclose to in-house counsel any material designated
22 HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY must first make a written
23 request to the designator providing the full name of the in-house counsel, the city and
24 state of such counsel’s residence, and such counsel’s current and reasonably foreseeable
25 future primary job duties and responsibilities in sufficient detail to determine present or
26 potential involvement in any competitive decision-making.

27 **4.4.2** A party seeking to disclose to an expert retained by outside counsel of record
28 any information or item that has been designated HIGHLY CONFIDENTIAL –

1 ATTORNEY EYES ONLY must first make a written request to the designator that (1)
2 identifies the general categories of HIGHLY CONFIDENTIAL – ATTORNEY EYES
3 ONLY information that the receiving party seeks permission to disclose to the expert, (2)
4 sets forth the full name of the expert and the city and state of his or her primary residence,
5 (3) attaches a copy of the expert’s current resume, (4) identifies the expert’s current
6 employer(s), (5) identifies each person or entity from whom the expert has received
7 compensation or funding for work in his or her areas of expertise (including in connection
8 with litigation) in the past five years, and (6) identifies (by name and number of the case,
9 filing date, and location of court) any litigation where the expert has offered expert
10 testimony, including by declaration, report or testimony at deposition or trial, in the past
11 five years. If the expert believes any of this information at (4) - (6) is subject to a
12 confidentiality obligation to a third party, then the expert should provide whatever
13 information the expert believes can be disclosed without violating any confidentiality
14 agreements, and the party seeking to disclose the information to the expert shall be
15 available to meet and confer with the designator regarding any such confidentiality
16 obligation.

17 **4.4.3** A party that makes a request and provides the information specified in
18 paragraphs 4.4.1 or 4.4.2 may disclose the designated material to the identified in-house
19 counsel or expert unless, within seven days of delivering the request, the party receives a
20 written objection from the designator providing detailed grounds for the objection.

21 **4.4.4** All challenges to objections from the designator shall proceed under Civil
22 Local Rule 37-1 through Civil Local Rule 37-4.

23 **5. SOURCE CODE**

24 The Parties agree that this provision of Judge Kronstadt’s Standing Protective
25 Order is inapplicable to the issues and materials in this case.

26 **6. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
27 **OTHER LITIGATION**

28 **6.1 Subpoenas and Court Orders.** This Order in no way excuses non-compliance

1 with a lawful subpoena or court order. The purpose of the duties described in this section
2 is to alert the interested parties to the existence of this Order and to give the designator an
3 opportunity to protect its confidentiality interests in the court where the subpoena or order
4 is issued.

5 **6.2 Notification Requirement.** If a party is served with a subpoena or a court order
6 issued in other litigation that compels disclosure of any information or items received by
7 that party in this action and designated in this action as “CONFIDENTIAL” or “HIGHLY
8 CONFIDENTIAL – ATTORNEY EYES ONLY,” that party must do the following:

9 **6.2.1** Promptly notify the designator in writing. Such notification shall include a
10 copy of the subpoena or court order.

11 **6.2.2** Promptly notify in writing the party who caused the subpoena or order to
12 issue in the other litigation that some or all of the material covered by the subpoena or
13 order is subject to this Order. Such notification shall include a copy of this Order.

14 **6.2.3** Cooperate with all reasonable procedures sought by the designator whose
15 material may be affected.

16 **6.3 Wait For Resolution of Protective Order.** If the designator promptly seeks a
17 protective order, the party served with the subpoena or court order shall not produce any
18 information designated in this action as “CONFIDENTIAL” or “HIGHLY
19 CONFIDENTIAL – ATTORNEY EYES ONLY” before a determination by the court
20 where the subpoena or order issued, unless the party has obtained the designator’s
21 permission. The designator shall bear the burden and expense of seeking protection of its
22 confidential material in that court.

23 **7. UNAUTHORIZED DISCLOSURE OF DESIGNATED MATERIAL**

24 If a receiving party learns that, by inadvertence or otherwise, it has disclosed
25 designated material to any person or in any circumstance not authorized under this Order,
26 it must immediately (1) notify in writing the designator of the unauthorized disclosures;
27 (2) use its best efforts to retrieve all unauthorized copies of the designated material; (3)
28 inform the person or persons to whom unauthorized disclosures were made of all the

1 terms of this Order; and (4) use reasonable efforts to have such person or persons execute
2 the Agreement to Be Bound.

3 **8. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
4 **PROTECTED MATERIAL**

5 When a producing party gives notice that certain inadvertently produced material is
6 subject to a claim of privilege or other protection, the obligations of the receiving parties
7 are those set forth in Fed. R. Civ. P. 26(b)(5)(B). This provision is not intended to modify
8 whatever procedure may be established in an e-discovery order that provides for
9 production without prior privilege review pursuant to Fed. R. Evid. 502(d) and (e).

10 **9. FILING UNDER SEAL**

11 Without written permission from the designator or a Court order, a party may not
12 file in the public record in this action any designated material. A party seeking to file
13 under seal any designated material must comply with Local Rule 79-5 and the Honorable
14 John A. Kronstadt's Standing Order with respect to the filing of under seal documents.
15 Filings may be made under seal only pursuant to a court order authorizing the sealing of
16 the specific material at issue. The fact that a document has been designated under this
17 Order is insufficient to justify filing under seal. Instead, parties must explain the basis for
18 confidentiality of each document sought to be filed under seal. Because a party other than
19 the designator will often be seeking to file designated material, cooperation between the
20 parties in preparing, and in reducing the number and extent of, requests for under seal
21 filing is essential. Accordingly, counsel are ordered to meet and confer in person or by
22 telephone at least seven (7) calendar days prior to the filing of an application wherein the
23 basis for the sealing is that it has been deemed confidential by the other party. Not later
24 than two (2) calendar days after the meet and confer process, the opposing party shall
25 confirm whether such information shall be designated as confidential or whether it can be
26 made available to the public. Such an application shall contain the dates and method by
27 which the parties met and conferred otherwise it will be denied without prejudice to an
28 amended application being filed after counsel have completed this process. If a receiving

1 party's request to file designated material under seal pursuant to Local Rule 79-5.1 is
2 denied by the Court, then the receiving party may file the material in the public record
3 unless (1) the designator seeks reconsideration within four (4) days of the denial, or (2) as
4 otherwise instructed by the Court. See Initial Standing Order for Civil Cases Assigned to
5 Judge John A. Kronstadt, § 11, p. 18.

6 **10.FINAL DISPOSITION**

7 Within 60 days after the final disposition of this action, each party shall return all
8 designated material to the designator or destroy such material, including all copies,
9 abstracts, compilations, summaries and any other format reproducing or capturing any
10 designated material. The receiving party must submit a written certification to the
11 designator by the 60-day deadline that (1) identifies (by category, where appropriate) all
12 the designated material that was returned or destroyed, and (2) affirms that the receiving
13 party has not retained any copies, abstracts, compilations, summaries or any other format
14 reproducing or capturing any of the designated material. This provision shall not prevent
15 counsel from retaining an archival copy of all pleadings, motion papers, trial, deposition
16 and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits,
17 expert reports, attorney work product, and consultant and expert work product, even if
18 such materials contain designated material. Any such archival copies remain subject to
19 this Order.

20
21 **SO STIPULATED.**

22 Dated: April 3, 2017

EDISON, McDOWELL & HETHERINGTON LLP

23
24
25 By: /s/ Jodi K. Swick

Jodi K. Swick

26 Robert D. Whitney

27 Attorneys for Plaintiff and Counter-Defendant
28 AMERICAN GENERAL LIFE INSURANCE
COMPANY

1 Dated: April 3, 2017

FUNSTEN & FRANZEN and HUMPHREY +
LAW

2
3
4 By: /s/ J. Scott Humphrey (w/ permission)
5 Don Erik Franzen
6 J. Scott Humphrey

7 Attorneys for Defendant and Counter-Claimant
8 JULIE VALENTINE
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1 Pursuant to the foregoing stipulation of the parties and for good cause shown, IT IS
2 SO ORDERED that the foregoing stipulated protective order be entered in this matter.

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5 Dated: April 7, 2017

By: /s/ Jacqueline Chooljian

6 The HONORABLE JACQUELINE CHOOLJIAN

7 United States Magistrate Judge
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EXHIBIT 1 – AGREEMENT TO BE BOUND

1
2 I, _____ [print or type full name], of _____
3 [print or type full address], declare under penalty of perjury that I have read in its entirety
4 and understand the Protective Order that was issued by the United States District Court
5 for the Central District of California on April 7, 2017 in the case of *American General*
6 *Life Insurance Company v. Julie Valentine*, case number 2:16-cv-08097-JAK-JC. I agree
7 to comply with and to be bound by all the terms of this Protective Order, and I understand
8 and acknowledge that failure to so comply could expose me to sanctions and punishment
9 for contempt. I solemnly promise that I will not disclose in any manner any information or
10 item that is subject to this Protective Order to any person or entity except in strict
11 compliance with this Order.

12 I further agree to submit to the jurisdiction of the United States District Court for
13 the Central District of California for the purpose of enforcing this Order, even if such
14 enforcement proceedings occur after termination of this action.

15 I hereby appoint _____ [print or type full name] of
16 _____ [print or type full address and telephone
17 number] as my California agent for service of process in connection with this action or
18 any proceedings related to enforcement of this Order.

19
20 Date: _____

21 City and State where sworn and signed: _____

22
23 Printed name: _____

24 [printed name]

25 Signature: _____

26 [signature]